

Ordinance No. _____ ORDINANCE: To amend the Zoning Map by adding 4.37 acres of land, more or less, of Reed Brothers, Inc., and Mary J. Gartner, Trustee, owners, and placing said property in the MXTD, Mixed Use Transit District

WHEREAS, the Mayor and Council of Rockville, Maryland, on October 10, 2011, in accordance with the provisions of Section 19, Article 23A of the Annotated Code of Maryland, 1957 Edition, as amended, enacted a Resolution enlarging and extending the boundaries of the City of Rockville so as to include a parcel of land owned by Reed Brothers, Inc., and Mary J. Gartner, Trustee, containing 4.37 acres of land, more or less, which parcel is located at 15955 Frederick Road, Rockville, Maryland; and

WHEREAS, said Resolution is to become fully effective 45 days after adoption; and

WHEREAS, the City of Rockville Planning Commission, pursuant to Section 3.05 of Article 66B of the Annotated Code of Maryland, 1957 Edition, as amended, and Chapter 25, Section 25.02.04 of the Zoning Ordinance of the City of Rockville, Maryland, has recommended to the Mayor and Council the boundaries of the various zoning districts for said area to be annexed; and

WHEREAS, the Mayor and Council of Rockville gave notice that a public hearing on the adoption of the zoning map for said area would be held by the Mayor and Council of Rockville in the Council Chamber, Rockville City Hall on September 12, 2011, at 7:00 p.m., or as soon thereafter as it may be held, at which parties in interest and citizens would have the opportunity to be heard, which notice was published once each week for two successive weeks in a newspaper of general circulation in the City of Rockville, with the first such publication appearing at least fifteen days prior to the hearing; and

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WHEREAS, on the 12th day of September, the said hearing was held at the time and place provided for in said advertisement; and

WHEREAS, the subject property is currently zoned TOMX-2 (Transit-Oriented Mixed Use-Medium Density), in Montgomery County and the Shady Grove Sector Plan for Montgomery County recommends the subject property for commercial mixed use zoning but restricts residential use; and

WHEREAS, the Annexation Petition requests that the City place the subject property in the City's MXTD, Mixed Use Transit District zone, which is consistent with the County's TOMX-2 Zone, but permits residential use; and

WHEREAS, Article 23A, Section 9(c), Annotated Code of Maryland provides, inter alia, that no municipality annexing land may, for a period of five (5) years following annexation, permit development of the annexed land for land uses substantially different than the use authorized, or at a substantially higher, not to exceed 50%, density than could be granted for the proposed development, in accordance with the zoning classification of the county applicable at the time of the annexation without the express approval of the County Council; and

WHEREAS, on June 9, 2011, the Montgomery County Planning Board voted to recommend that the Council not approve the City's request to change the property's current zoning; and

WHEREAS, on July 12, 2011, the annexation petition was considered by the Planning, Housing and Economic Development Committee of the Montgomery County Council and the Committee did not support the proposed reclassification; and

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WHEREAS, on July 19, 2011, the District Council reviewed Annexation Petition ANX2010-00139 and disagreed with the recommendations of the Planning Housing and Economic Development Committee; and

WHEREAS, by Resolution No. 17-219, the County Council for Montgomery County, sitting as a District Council, approved City of Rockville Annexation Petition No. ANX2010-00139, and its rezoning from the County's TOMX-2 (Transit Oriented Mixed Use) zone to the City's MXTD (Mixed Use Transit District) zone; and

WHEREAS, the Mayor and Council of Rockville, having fully considered the matter, has determined to place the annexed property in the City's MXTD (Mixed Use Transit District) zone, under certain conditions to be set forth in an annexation agreement, so as to promote the health, security and general welfare of the community of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

SECTION 1. That the map entitled "Zoning Map of the City of Rockville, Maryland" together with all amendments thereto; the said map as amended constituting the official Zoning Map of the City of Rockville, be and the same is hereby amended so as to incorporate as a part thereof the map entitled "Proposed Zoning Map - Annexation 2010-00139," which map places said property in the MXTD, Mixed Use Transit District Zone, the annexation resolution for which tract was adopted on October 10, 2011, said map being dated September 30, 2011, and said map, sections or portions thereof, together with all notations, dimensions, designations, references and other data shown thereon are hereby adopted and made a part of the City of

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Rockville's Zoning Ordinance to the same extent as if the information set forth on said map were fully described and incorporated therein.

SECTION 2. That the effective date of this ordinance shall be the date on which the annexation of the 4.37 acres of land, more or less, as described, to the City of Rockville, becomes finally effective.

* * * * *

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of .

Brenda F. Bean, Acting City Clerk